IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 26113 of 1999

Between

M. Shankar S/o M. Papaiah

Ramagundam, Karimnagar District

... PETITIONER

AND

1. The Inspector of Prohibition & Excise

Dharmapuri, Karimnagar District

2. The Assistant Excise Superintendent

Jagityala, Karimnagar District

3. The Excise Superintendent

Karimnagar, Karimnagar District

... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order particularly one in the nature of writ of Mandamus declaring the action of 1st respondent herein in issuing the distraint order dated 16-11-1999 as arbitrary and illegal and violative of Article 14 and 21 of the Constitution of India and consequently set aside the same

Counsel for the Petitioner: MR.DASARI VIJAYA KUMAR, Advocate

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court Made the Following Order:

ORDER:

The petitioner is a licensee under the Andhra Pradesh (Arrack and Toddy Licences General Conditions) Rules, 1969 for the Excise year 1990 - 1991 in respect of arrack unit at Pagadapalli of Karimnagar District. But all of a sudden, by the impugned proceedings dated 16.11.1999 the petitioner was directed to pay a sum of Rs.2,64,341/- as arrears for the licence period of 1990 - 91. Before issuance of the said proceedings under section 52 of the Andhra Pradesh Revenue Recovery Act, no notice whatsoever was given.

In view of disposal of W.P.No.23416 of 1999 and batch wherein it is categorically held that the respondents are under obligation to provide an opportunity to the petitioner/defaulter and only on such determination the department can proceed with recovery of the arrears.

Accordingly, the impugned order is set aside and the writ petition is allowed.

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A. GOPAL REDDY, J)

June 25, 2004

Dsk

To

1. The Inspector of Prohibition & Excise

Dharmapuri, Karimnagar District

2. The Assistant Excise Superintendent

Jagityala, Karimnagar District

3. The Excise Superintendent

Karimnagar, Karimnagar District

4. Two C.Cs to G.P. for Prohibition & Excise, High Court Buildings, Hyderabad.

5. Two C.D. Copies